

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEESYA D. ROSS,	:	Case No. 3:13-cv-38
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Chief Magistrate Judge Sharon L. Ovington
vs.	:	
	:	
TELEPERFORMANCE USA,	:	
INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE
(Doc. 91); (2) OVERRULING PLAINTIFF'S OBJECTIONS (Doc. 92); AND
TERMINATING THIS CASE FROM THE DOCKET**

This civil case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to Chief United States Magistrate Judge Sharon L. Ovington. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court, and, on June 5, 2014, submitted a Report and Recommendations. (Doc. 91). Plaintiff filed timely objections (Doc. 92) and Defendants filed a response (Doc. 93).¹

¹ In her objections, and for the first time in this case, Plaintiff argues that Defendant provided shifting justifications for her termination, which is probative of pretext. However, Plaintiff waived this argument because she failed to present the issue to the Magistrate Judge. *See Glidden Co. v. Kinsella*, 386 F. App'x 535, 544 & n.2 (6th Cir. 2010). Moreover, even if Plaintiff's argument were timely, she fails to evidence a genuine issue of material fact regarding pretext. *See Yost v. McCoy, Inc.*, No. 3:13-cv-206, 2013 U.S. Dist. LEXIS 85302, at *22 (S.D. Ohio June 18, 2013). Finally, Plaintiff fails to present evidence that Defendant did not honestly believe its proffered reason for her termination. *See Chen v. Dow Chem. Co.*, 580 F.3d 394, 401 (6th Cir. 2009). Her opposition to summary judgment therefore fails.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby **ADOPTED** in its entirety; and Plaintiff's Objections to the Report and Recommendations are overruled. Accordingly:

1. Defendants' motion for summary judgment (Doc. 86) is **GRANTED**;
2. Plaintiff's cross motion for summary judgment (Doc. 89) is **DENIED** as untimely and **MOOT**;
3. Defendants' motion to dismiss (Doc. 70), Plaintiff's motion for extension of time (Doc. 72), and Defendants' motion for protective order (Doc. 74) are **DENIED** as **MOOT**;
4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith, and therefore **DENIES** Plaintiff leave to appeal *in forma pauperis*. She remains free, however, to apply to proceed *in forma pauperis* in the Court of Appeals; and
5. The Clerk shall enter judgment accordingly, whereupon:
6. This civil action is **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

Date: 7/14/14

s/ Timothy S. Black
Timothy S. Black
United States District Judge